

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FELIMON PATINO,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

CRIMINAL CASE NO.

1:08-cr-175-JEC

CIVIL ACTION FILE NO.

1:11-cv-1455-JEC

ORDER

The above criminal action is presently before the Court on the Magistrate Judge's Final Report and Recommendation [54] recommending denying movant's Motion to Vacate Sentence [49]. No objections to the Report and Recommendation [54] have been filed. The Court has reviewed the Final Report and Recommendation [54] on the merits and finds the magistrate judge's conclusions to be well-founded.

In addition to the reasons offered by the magistrate judge in support of his recommended dismissal of the action, the undersigned also notes that had defense counsel mentioned the mitigating factors identified by defendant, this advocacy would have had no impact on the Court's sentencing decision. The Court is well familiar with the fact that an illegal alien in BOP custody is not eligible for prerelease custody in a halfway house nor for minimum security

confinement. The Court always factors those considerations into its sentencing decision.

Accordingly, it is hereby Ordered that the Court **ADOPTS** the Magistrate Judge's Final Report and Recommendation [54] **DENYING** movant's Motion to Vacate Sentence [871]. It is further Ordered that a certificate of appealability is **DENIED**.

SO ORDERED this 20th day of DECEMBER, 2011.

/s/ Julie E. Carnes
JULIE E. CARNES
CHIEF U.S. DISTRICT JUDGE